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SUMMARY RECORD OF THE 32nd MEETING

Chairman: Mr. LEHMANN (Denmark)

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/50/33, A/50/361 and A/50/403)

1. Mr. HORAK (Czech Republic) referring to the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, said that the results of consideration of that item by the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization were not satisfactory. The matter was certainly wide-ranging and complex, and simple and easy solutions would probably not be available. The Czech Republic, as a member of the Special Committee, had studied with interest the proposals contained in document A/AC.182/L.79, particularly the idea of establishing a trust fund to assist financially third States affected by the imposition of sanctions. However, the role which such a fund could play in resolving the problems resulting from the application of sanctions should not be overestimated.

2. A number of those problems could be dealt with effectively on a case-by-case basis, because the circumstances and the particular problems faced by affected third States varied considerably, and called for different approaches. In that respect, there was a need to improve the procedures of the Sanctions Committees of the Security Council. On the other hand, measures taken to assist third States should not be considered as a precondition for the action of the Security Council under Chapter VII. The Security Council must obviously remain able to carry out its responsibilities in accordance with the Charter, and its power to impose sanctions rapidly and effectively when the situation warranted must not be affected.

3. The ongoing discussions within the Sixth Committee working group established in order to consider that issue had so far been constructive and thought-provoking. His delegation welcomed the proposals aimed at ensuring increased transparency in the procedures of the Sanctions Committees, as well as those intended to improve coordination. In that connection, appropriate organizational and institutional arrangements should be made within the Secretariat in order to improve the capacity of the Organization to mitigate the adverse impact of sanctions upon third States.

4. His delegation welcomed the adoption by the Special Committee of the Model Rules for the Conciliation of Disputes between States based on a working paper submitted by Guatemala. The final version of the Model Rules was a balanced, satisfactory text which, because it took into account existing procedures, would be useful to States when they wished to resort to conciliation.

5. With regard to the proposal by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes", the Special Committee had made no substantive progress. That proposal concerned a matter several aspects of which had already been studied by

the Special Committee; moreover, the results of the Committee's work on the subject had been covered by several documents. The relationship between those documents and the proposal must be clarified in order to make it easier for the Special Committee to decide how it intended to approach the matter. In that respect, he wished to thank the delegation of Sierra Leone for the commentary contained in document A/50/403.

6. With regard to the "enemy State" clauses of the Charter, his delegation supported the Special Committee's recommendation that those clauses should be deleted as soon as possible by using the amendment procedure set out in Article 108 of the Charter; it hoped that that proposal would be adopted by consensus.

7. With regard to the membership of the Special Committee, his delegation was prepared to follow the general feeling of the Sixth Committee, although it was not convinced that it was really necessary to make the Special Committee open-ended. Thus far, the Special Committee had conducted its work in a manner which had allowed all States, without any discrimination, to participate fully and on an equal footing with the members of the Special Committee. Furthermore, the Special Committee had no decision-making power, and all the results of its work were submitted for consideration to the Sixth Committee, which was a plenary committee. In the view of his delegation, the agenda and working practices of the Special Committee were more important than the issue of its membership, and in that respect, as the Special Committee had itself recommended, its work should be governed by the need for consensus.

8. Mr. CHA Jong Nam (Democratic People's Republic of Korea) said that the Special Committee was faced with a number of tasks which would lead it to take legal steps to deal with the unexpected challenges which had arisen in the post-cold war era. Maintaining international peace and security was of particular importance to all Member States, and in that context, the proposals which some States had made with regard to the strengthening of the role of the United Nations were positive. International peace and security could not be ensured unless the principles of respect for sovereignty, territorial integrity, non-interference in the internal affairs of other States, impartiality and equality were strictly observed; States should refrain from any selfish or hegemonic behaviour.

9. The imposition of sanctions, in whatever form, could never be a proper way to settle disputes, and foreign interference merely complicated problems further. It was not right that the Security Council should decide to impose sanctions, inflicting untold suffering on the innocent and peaceful people of certain countries and even those of neighbouring countries, and that, thereafter, the United Nations should bear complete responsibility for the consequences of the sanctions. It was from that point of view that his delegation advocated the peaceful settlement of all disputes, through dialogue and negotiation based on mutual respect, non-interference, equality and mutual benefit. It also looked forward to the enhancement of the role of the International Court of Justice in that regard.

10. To strengthen the role of the United Nations, it was first of all necessary to restructure the Organization, and in particular to reform the Security

Council. Although the General Assembly had established a working group to consider the issue, the related legal issues should be settled by the Special Committee on the Charter. Since the majority of United Nations Member States were developing countries, the membership of the Security Council should be enlarged and the will and interests of those countries should be fully represented in its work and the decision-making process. Moreover, the work of the Security Council should be made transparent and democratic, and its mandate should be curtailed. Exercise of the veto, which enabled the permanent members to enjoy certain privileges, had been the main obstacle to the democratization of the United Nations. The veto was a means of enabling the super-Powers to protect their own interests and keep each other in check rather than a means of resolving disputes impartially. It should be eliminated, but in the meantime attention should be given to the proposals put forward by some States to limit or diminish the scope and use of the veto.

11. Mr. SOARES (Brazil) said that the question of implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII had become more pressing because of the Security Council's increasing use of sanctions under Chapter VII and because of the growing economic interdependence between States. He believed that the international community should seriously examine the issues raised in the relevant working paper submitted by Uruguay, in particular the idea of sharing the costs of a system of collective security, the principle of mutual assistance and the need to study specific techniques for providing assistance to States affected by the implementation of sanctions. The application of sanctions was an exceptional mechanism used by the Security Council when diplomatic channels had failed to produce a satisfactory solution. His delegation had always attached great importance to the issue, which was why he had noted with satisfaction the ideas contained in the report of the Secretary-General entitled "Supplement to an Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations", and also in the report of the Secretary-General on the issue (A/50/361).

12. The establishment of procedures to implement Articles 49 and 50 of the Charter was indeed a complex and time-consuming endeavour. Problems had arisen, especially in connection with the need to identify criteria to assess the special economic problems facing States and the implementation of preventive or enforcement measures against any State taken by the Security Council, as referred to in Article 50 of the Charter. A mechanism could be devised to address those problems, financed by the opening of special windows of credit by international financial institutions. Resources could be utilized to provide direct financial assistance or to support technical projects.

13. Still on the topic of the maintenance of international peace and security, his delegation believed that the working paper submitted by the Russian Federation on new issues for consideration in the Special Committee would be extremely useful in selecting topics for inclusion in the Special Committee's programme of work. Likewise, the proposals concerning the Security Council submitted by the Libyan Arab Jamahiriya and the Cuban proposal concerning the strengthening of the role of the Organization contained many interesting ideas which deserved to be considered by the Special Committee. The working papers

had addressed the strengthening of the role of the Organization and the wider participation of the international community in the decision-making process in the United Nations, particularly in the Security Council. Although the rapidly changing international environment had led the Security Council to speed up its decision-making mechanisms on increasingly complex issues, the present membership of the United Nations was not properly reflected in the Council. A more representative and balanced composition of the Council would enhance the effectiveness of its actions and the authority of its decisions.

14. On the question of peaceful settlement of disputes, the Special Committee had done excellent work in concluding consideration of the draft Model Rules for the Conciliation of Disputes between States, which had been submitted by Guatemala. Those flexible and non-binding model rules were a useful addition to existing arrangements for the peaceful settlement of disputes between States. The proposal submitted by Sierra Leone entitled "Establishment of a Dispute Settlement Service offering or responding with its services early in disputes" would provide a good basis for the future work of the Committee with regard to the peaceful settlement of disputes between States.

15. His delegation had always favoured deletion of the obsolete "enemy State" clauses contained in Articles 53, 77 and 107 of the Charter. The General Assembly should therefore initiate the procedure stipulated by Article 108 of the Charter with a view to deleting them. On the other hand, his delegation fully agreed with the opinion expressed at the latest session of the Special Committee, namely, that deletion of those clauses from the text of the Charter should be viewed as an integral part of the broader process of reforms to the Charter. Finally, his delegation had noted with satisfaction the Special Committee's decision to open its membership to all States Members of the United Nations.

ANNOUNCEMENT CONCERNING SPONSORSHIP OF DRAFT RESOLUTIONS

16. Miss DAUCHY (Secretary of the Committee) announced that Cyprus had joined the sponsors of draft resolution A/C.6/50/L.4 and that Thailand had joined the sponsors of draft resolution A/C.6/50/L.5, both submitted under agenda item 143.

The meeting rose at 4 p.m.